

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 11 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Satellite Delivery of Network Signals
to Unserved Households for
Purposes of the Satellite Home
Viewer Act

Part 73 Definition and Measurement
of Signals of Grade B Intensity

CS Docket No. 98-201

RM No. 9335

RM No. 9345

To: The Commission - Mail Stop 1170

COMMENTS OF TV-67, INC.

1. Introduction. TV-67, Inc. ("TV-67") hereby submits these comments in response to the Commission's *Notice of Proposed Rule Making* ("NPRM") in the above-captioned proceeding, FCC 98-302, released November 17, 1998. TV-67 is the FOX Network affiliate serving the Lima, Ohio, DMA. As TV-67 is a broadcast affiliate providing programming to the public, TV-67 has an interest in this proceeding. TV-67 urges the Commission to recognize that the changes proposed by the petitions filed by the National Rural Telecommunications Cooperative ("NRTC") and EchoStar Communications Corporation ("EchoStar") are unnecessary and detrimental to both broadcasters and the viewing public. No changes are needed to current standards for determining local service; rather, the current law should be enforced. Accordingly, the Commission should decline to adopt the changes proposed in the NPRM regarding methods for determining whether a household is

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“unserved” by local network affiliated television broadcast stations for purposes of the 1988 Satellite Home Viewer Act (“SHVA”).¹

2. Reduction of copyright protection. Reducing copyright protection for network programming will reduce the viewership of TV-67, resulting in less value to TV-67's advertisers and diminished income to the station. This income is used to promote public interest in any number of ways, not the least of which is to provide free air time for local non-profit service organizations and public service announcements. A reduction in viewership will also result in a reduction of the viewer's exposure to such public service announcements and local programming and information. Our records indicate that when a viewer purchases a satellite dish, less than 50% invest in a cable service or an antenna system to get local free network programming resulting in diminished access to local information and broadcasting.

3. Exclusivity of non-local programming is a basic product offered to TV-67's viewers. It provides value to advertisers and income that allows stations to provide public services to its viewers. The Commission's current standards protect the basic tenets of localism and local broadcasting.² This policy should be continued and advocated. If the standards are modified to allow satellite providers to broadcast and duplicate the network programs that local stations have bought and currently provide localism and local broadcasting will be irreparably injured. If the standards are retained in the current form, viewers will retain access to broadcast network service free and over-the-air from their local station.

¹ 17 U.S.C. § 119 (1998).

² See NPRM at ¶3.

4. Reception standard for testing purposes. The Commission should continue to require households to use an “outdoor rooftop” antenna for testing purposes. Most satellite dish systems require special - usually outdoor - receiving dish and it would be unfair to relegate broadcast service to an indoor set-top antenna when satellite service utilizes an outdoor receiving dish.


5. Orientation of antenna for signal measurement. Any signal measurement system should require the homeowner’s antenna to be oriented toward the station whose signal is being tested. The equipment was designed so that it picks up satellite transmissions by properly point the satellite dish toward the transmitting satellite transponder and the Commission has traditionally evaluated reception based on the receiving antenna being oriented toward the transmitter. The standards for satellite and broadcast should be the same for purposes of the signal measurement methodology.

6. Cost of measurement. The current system providing for the costs of measurement of signals should be retained as it is fair and proper. If a broadcast station conducts a measurement that confirms satellite service is being illegally provided, then the broadcast station should be reimbursed. The reverse is true if a broadcast station incorrectly challenges the eligibility of a subscriber to receive network programming by satellite.

7. Conclusion. Localism and the economic viability of local stations have been paramount considerations of the Commission and Congress. Providing for reduced copyright protection as proposed in the NPRM will result in a loss of localism and will jeopardize the economic viability of local stations. The satellite broadcasters should not receive advantages over broadcasters but shall be placed on the same footing for purposes of measurement methodologies.

WHEREFORE, we respectfully request that the Commission consider the foregoing Comments and refrain from reducing the protection afforded by the SHVA.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michelle A. McClure", is written over a horizontal line.

Peter Tannenwald
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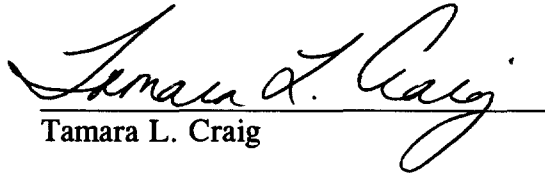
CERTIFICATE OF SERVICE

I, Tamara L. Craig, hereby certify that on this 11th day of December, 1998, copies of the foregoing "Comments of TV-67, Inc." have been served by first class mail, postage prepaid, upon the following:

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